

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mike Knell, dba JTR Publishing,

Complainant,

vs.

Pacific Bell Telephone Company and AT&T
Communications of California, Inc.,

Defendants.

Case 01-07-034
(Filed July 25, 2001)

ORDER EXTENDING STATUTORY DEADLINE

We extend the deadline for resolving this adjudicatory proceeding until November 30, 2002. Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline. The 12-month deadline for resolving this matter is July 25, 2002. In this order, we find that an extension is necessary to reasonably accommodate filing of briefs, issuance of the presiding officer's decision (POD) and any ensuing appeal or request for review.

Background

The need for this extension is based on Complainant's filing of an amendment to the Complaint on January 29, 2002. In responsive pleadings to Complainant's motion for leave to file the amendment, parties objected to the

amendment and resulting expansion of the issues in this proceeding in part based on the need for additional discovery and testimony preparation time. Complainant agreed to amending the procedural schedule to permit Pacific Bell Telephone Company and AT&T Communications of California, Inc. sufficient time to propound discovery and prepare testimony in response to the complaint and amendment. By a February 26, 2002, Administrative Law Judge (ALJ) ruling granting leave to file the amendment, answers to the amendment were permitted, the proceeding was to be submitted chiefly on written testimony and briefs, the due date for testimony was rescheduled from March 18, 2002 to April 26, 2002, and the hearing was continued from April 17, 2002 to June 5, 2002. The parties later stipulated to extend the time for submitting testimony to June 5 and to raise objections to the testimony in briefs. The hearing was held on June 5, 2002, concurrent opening briefs will be filed on July 3, 2002, and the proceeding will be submitted on the filing of reply briefs on July 26, 2002. To permit sufficient time for preparing a POD (60 days) and Commission consideration of any appeals or requests for review (about 60 additional days), the deadline for resolving this proceeding should be extended to November 30, 2002.

Discussion

Because of the nearness of the approaching deadline, and the fact that the case has not yet concluded, this order is issued to provide the findings required by § 1701.2(d). Because Complainant filed the amendment to the Complaint and the parties reasonably required additional time to answer it and prepare for hearings, this case cannot be concluded within 12 months of initiation. Accordingly, we find that the 12-month deadline for processing this case pursuant to Pub. Util. Code § 1701.2(d) cannot be met, and that an extension in

the schedule will be required. An extension through November 30, 2002, should provide reasonable time to conclude the proceeding.

Under Rule 77.7(f)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable statutory deadline for public review and comment is being waived.

Findings of Fact

1. This proceeding was filed on July 25, 2001.
2. Complainant's motion for leave to file an amendment to the complaint was granted and the hearing was reset for June 5, 2002.
3. Based upon the 12-month statutory deadline, this proceeding must be resolved on or before July 25, 2002, unless this date is extended.
4. Under the current schedule, this proceeding cannot be resolved before the 12-month statutory deadline runs.
5. An extension through November 30, 2002, is necessary to allow time for completion of this proceeding.
6. Public review and comment regarding today's decision should be waived.

Conclusions of Law

1. Pub. Util. Code § 1701.2(d) requires that adjudication cases be solved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline.
2. The findings set forth above are sufficient to find that the 12-month deadline cannot be met.
3. The 12-month statutory deadline imposed by Pub. Util. Code § 1701.2(d) should be extended, effective immediately.

O R D E R

IT IS ORDERED that the 12-month statutory deadline in this proceeding, is extended until November 30, 2002.

This order is effective today.

Dated _____, at San Francisco, California.